

Our Ref: IM-FOI-2018-1746  
Date: 22 August 2018



## **FREEDOM OF INFORMATION (SCOTLAND) ACT 2002**

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

- 1. The number of reports of domestic abuse-related incidents and domestic abuse-related offences (also known as domestic violence) that were dealt with (or are still being dealt with) by your force's Professional Standards Department (or otherwise named), annually, from 12th April 2015 to 11th April 2018**
- 2. Whatever name/category your Professional Standards Dept assigned to each report**
- 3. The specific incident(s) or offence(s) alleged in each report**
- 4. The outcome(s) of each report**
- 5. Whether each report was referred to the IPOC (formerly known as the IPCC)**

### **Clarification**

Domestic abuse incidents allegedly **perpetrated by Police Scotland employees**

'Domestic Abuse' is not yet in itself a substantive crime in Scotland but an umbrella under which many common law crimes and statutory offences may be committed and is not a specific category on the PSD database. From 1 April 2018 however, "domestic incident" has been included in the allegation circumstances to allow capturing of this information.

Having considered your request for questions 1 to 5 and in terms of the above Act, I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations. As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request. As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of an explanation, to obtain the information sought for the period from 12 April 2015 to 31 March 2018 would require an individual to review all cases for this period to ascertain if the allegations related to domestic abuse, this would be a significant task and would exceed the cost and time threshold set by ministers.

From 1 April 2018 to 11 April 2018, one case falls into the category of "domestic incident" however, this case is currently being investigated.

In terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information requested.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

- (a) states that it holds the information,
- (b) states that it is claiming an exemption,
- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information that you have requested.

The exemption that I consider to be applicable to the information requested by you is as follows:

#### Section 34 (1) (b) - Investigations

Any disclosure under FOI legislation is a disclosure to the world at large and any information identifying the focus of policing activity could be used to the advantage of criminal organisations.

Disclosure of the information requested into the public domain would impact on the investigation process and give an indication as to which cases are being reviewed at any point.

This would also prejudice the force's ability to identify the perpetrators, as an awareness of police activity could allow them to take steps to evade detection.

Such information is exempt if its disclosure under this Act would, or would be likely to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

#### Public Interest Test

Accountability and transparency relating to the actions of the Service and our officers would favour disclosure of the information, however, disclosure of the information you have requested would be detrimental to ongoing investigations.

It is essential that information pertaining to certain investigations is disclosed at the correct time, where appropriate, to ensure that neither the investigation nor the potential for proceedings to be brought against an individual are put at risk. Therefore, the balance lies in withholding the information requested and accordingly, I have decided to maintain the exemptions.

## **6. Your policies and procedures relating to:**

- domestic abuse in general, committed by any perpetrator and dealt with by the police**
- domestic abuse incidents/offences where the police are perpetrators or victims**

Police Scotland defines Domestic Abuse as:

“Any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse may be committed in the home or elsewhere including online”

To provide you with some context of the volume of domestic incidents reported in Scotland, in 2016/17 Police Scotland attended 58,810 domestic incidents which equates to one incident every 9 minutes.

Tackling Domestic Abuse is therefore a priority for Police Scotland and we are committed to working with our partners to reduce the harm it causes and ultimately eradicate it. We proactively target perpetrators, and support victims to prevent it damaging the lives of victims and their families including children, who too often witness the abuse.

### **domestic abuse in general, committed by any perpetrator and dealt with by the police**

Please be advised that Police Scotland's procedures for domestic abuse committed by any perpetrator and dealt with by the police is publicly available. As such, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought. Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

- (a) states that it holds the information,
- (b) states that it is claiming an exemption,
- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information that you have requested and the exemption that I consider to be applicable is set out at Section 25(1) of the Act - information otherwise accessible:

“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”

The information you are seeking is available in the Joint Protocol between Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS), “*In partnership challenging domestic abuse*” which is a public document that can be found at the Police Scotland website on <http://www.scotland.police.uk/keep-safe/advice-for-victims-of-crime/domestic-abuse/reporting-domestic-abuse/> or on the COPFS website on <http://www.copfs.gov.uk/>.

**- domestic abuse incidents/offences where the police are perpetrators or victims**

Sections 25 and 26 within our Police Scotland Standard Operating Procedure (SOP) for Domestic Abuse provides specific information regarding how Police Scotland deals with domestic abuse incidents where police officers, special constables or police staff are victims or perpetrators, which is in accordance with the Joint Protocol referred to in a previous paragraph of this letter.

Police Scotland recognises that public confidence and the confidence of victims must be maintained where police officers, special constables or police staff are involved in domestic abuse incidents and as such, where there is sufficient evidence available, perpetrators will be reported to the Procurator Fiscal and may be held accountable through the Criminal Justice System and where appropriate, by means of internal discipline procedures and misconduct proceedings.

Please see below an extract for Sections 25 and 26 from Police Scotland's SOP for Domestic Abuse for incidents involving Police Officers, Special Constables and Members of Police Staff. Redactions have been made and the following exemptions are applicable: Exemption Section 35 (1) (a) & (b) Law Enforcement.

By way of an explanation, disclosure of the tactics and procedures utilised by Police Scotland into the public domain could enable criminals to interpret the capabilities of officers at any one time and would allow them to make diversionary use of this information to avoid apprehension. As such, the disclosure of the information could prejudice substantially the prevention and detection of crime.

This is a non-absolute exemption and requires the application of the public interest test.

**Public Interest Test**

The primary role of the police is to take appropriate measures to prevent or detect crime and for the apprehension or prosecution of offenders. Disclosure would provide information relating to specific police procedures and while tactics undertaken may appear perfectly reasonable to a law abiding member of the public, however, to those minded to criminality, the knowledge they gain from such a disclosure could assist individuals to evade detection.

## **25.1 Victim**

25.1.1 Where a police officer, special constable or member of police staff is a victim of Domestic Abuse, PSoS is committed to providing a professional, sensitive and consistent approach to them and their family.

25.1.2 They will be treated in exactly the same manner as a member of the public reporting Domestic Abuse.

PSoS recognises that the workplace should be seen as a place where those affected by Domestic Abuse can access help and where they will be treated in a fair, sensitive and ethical manner and their individual needs considered when support measures are identified. The safety of a victim of Domestic Abuse, their family and of any other persons present is of paramount importance and will be a priority at all times.

## **25.2 Suspect**

25.2.1 Where a police officer, special constable or member of police staff is an alleged perpetrator of Domestic Abuse, they will not be treated as distinct from any other perpetrator. They will be dealt with in adherence with the Police Scotland / COPFS Joint Protocol "In partnership challenging domestic abuse"

25.2.1 Public confidence and the confidence of victims must be maintained and as such, perpetrators, where there is sufficient evidence available, will be reported to the PF and may be held accountable through the Criminal Justice System and where appropriate, by means of internal discipline procedures and misconduct proceedings. Notwithstanding any criminal and/or disciplinary proceedings, PSoS has a duty of care towards all police officers, special constables and members of police staff; therefore any perpetrator of Domestic Abuse will be offered support and assistance in the aftermath of such an incident. This will be provided by management from the Local Policing Area or department in which the individual is deployed.

## **25.3 Ownership of Enquiry and General Guidance**

25.3.1 Where a police officer, special constable or member of police staff is a victim of Domestic Abuse, an officer of supervisory rank will have responsibility for overseeing the incident. Where an alleged perpetrator is a police officer, special constable or member of police staff, an officer of supervisory rank will have responsibility for the incident and become the enquiry officer.

25.3.2 While a perpetrator is not specifically entitled to confidentiality, it is appropriate that the enquiry officer exercises tact and discretion when dealing with a police officer, special constable or member of police staff in these circumstances.

25.3.3 Enquiry Officers will adhere to the guidelines contained within this SOP and ensure a thorough investigation is undertaken with all possible lines of enquiry pursued. The DAQ risk assessment will be applied in all cases and appropriate responses initiated.

25.3.4



25.3.5 The following post holders have specific responsibilities in Domestic Abuse incidents where a police officer, special constable or member of police staff is involved:

- **Area Control Room Staff** – When it is identified a police officer, special constable or member of police staff is involved in an incident of Domestic Abuse, supervisors within the ACR must ensure the relevant Command and Control incident is view rated.
- **Supervisors** – Supervisors will ensure any incident involving a police officer, special constable or member of police staff is investigated thoroughly. If a situation arises where the detaining/arresting officer is known to the perpetrator, arrangements should be made, where possible, for an officer unknown to the perpetrator to continue the enquiry.

It is accepted that a police officer may have no choice but to apprehend a police officer, special constable or member of police staff who is known to them, however, their continued involvement in the enquiry should be reviewed at an early stage.

It is imperative that supervisors ensure the risk assessment is applied and that the Police response is measured against the risk to the victim. The observations and views of the enquiry officer should be included in this process to ensure it is comprehensive and robust. The relevant Command and Control incident must be accurately recorded and coded [REDACTED]

25.3.6 When a Crime Report or iVPD report is raised in relation to a Domestic Incident involving a police officer, special constable or member of police staff, access to this must be restricted and a supervisor must ensure this is adhered to. It is acknowledged that in some cases both the victim and perpetrator may be a police officer, special constable or member of police staff.

25.3.7 In this situation every effort will be made to ensure the police response is measured against the needs of each party.

25.3.8 If a Domestic Abuse SPR2 template is forwarded to the PF [REDACTED]



25.3.9 For victims of Domestic Abuse, early referral to internal support such as the Occupational Health and Welfare Unit will be undertaken by their Local Area Commander or Head of Department. Additional support for victims can be arranged by officers within the DAIU, who maintain regular contact with many support and advocacy agencies.

- 25.3.10 Where an employee is an alleged perpetrator of Domestic Abuse, regardless of whether they remain in post, relocate to a different post or are suspended from duty; the Local Area Commander / Head of Department for their normal place of duty will be responsible for ensuring early referral to internal support services, Police Federation, or the Trades Union representing that staff member, as well as ongoing support appropriate to their needs.
- 25.3.11 Employees, whether victims or perpetrators, may require to take time off work to visit Solicitors, Doctors, support agencies, schools etc. Line Managers should, where possible, facilitate necessary requirements.

## **26. If No Complaint is Made by the Victim**

- 26.1 The Police Scotland / COPFS Joint Protocol “In partnership, challenging domestic abuse” states that 'Whether or not the victim makes a complaint, the police will take appropriate action including the detention or arrest of the suspect. Only where there is sufficient evidence available will the police charge the suspect and report the circumstances without delay to the PF for consideration of prosecution.' Every effort should be made to reassure a victim and support them in pursuing their complaint.
- 26.2 This is also applicable where there is reluctance by a police officer, special constable or member of police staff in pursuing a complaint, due to fear of reprisals, embarrassment or a perception that there is insufficient evidence.



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Should you require any further assistance please contact Information Management - Glasgow on 01786 895867 quoting the reference number given.

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to [foi@scotland.pnn.police.uk](mailto:foi@scotland.pnn.police.uk) or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.

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